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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,149	11/04/2003	Herbert Gerlach	047777/271178	5498

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EXAMINER

MAYES, MELVIN C

ART UNIT PAPER NUMBER

1734

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/701,149

Applicant(s)

GERLACH, HERBERT

Examiner

Melvin Curtis Mayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) 16-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

(1)

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 21, 2005 has been entered.

### ***Claim Rejections - 35 USC § 112***

(2)

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

(3)

Claims 3, 4 and 7-10 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for applying binder either to the first layer or to the second layer to form the transversely extending seal, does not reasonably provide enablement for applying binder to both the first layer and the second layer form a transversely extending seal and a transverse seal. The specification does not enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

According to the specification, it appears that binder is applied to one or the other of the first or second layer but not both to form the transverse seal.

(4)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

(5)

Claims 3, 4 and 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 claims a second binder feed device for applying to the second layer a second binder for producing a transverse seal and Claim 7 claims adhesive is applied to the second layer but depends from Claim 1 in which binder is applied to the first layer to form a transversely extending seal. Does this mean that binder for forming the transverse seal is applied to both the first layer and the second layer? If binder is applied to first layer to form a transversely extending seal, how does second binder applied to the second layer also produce a transverse seal. Are the transversely extending seal and the transverse seal the same seal? According to the specification, it appears that binder is applied to one or the other of the first or second layer but not both to form the transverse seal.

***Claim Rejections - 35 USC § 103***

(6)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(7)

Claims 1, 5, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew 4,675,209 in view of Pelley et al. 5,766,388 and Raterman 5,540,804.

Pedigrew discloses a method of making a laminate for hygienic articles such as diapers comprising: applying adhesive to a moving core stratum in defined areas along the continuous core stratum; passing the core stratum through a container to apply and adhere absorbent particle material onto the core stratum in the areas of the adhesive; contacting both surfaces of the core stratum with brushes and a suction head to remove excess particles not adhered to the adhesive areas and which have been deposited on the opposite, thus forming sharply defined areas of absorbent particle material along the core stratum; combining the core stratum with a protector sheet and cover layer; and cutting between the defined areas to form individual articles (col. 3-7). Pedigrew does not disclose applying binder to the core stratum in strips between the defined areas of particles before combining with the cover layer to form transversely extending seals.

Pelley et al. teach that in making laminated absorbent structures, additional process steps include applying an adhesive to the first major surface to provide for lamination to additional layers (col. 2, lines 25-28).

Raterman teaches that in adhering two webs together by adhesive such as for the manufacture of disposable diapers, continuous fine lines of adhesive are deposited along the

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substrate in a machine direction and a swirl pattern or random fibrous adhesive deposition is applied in a cross-machine (transverse) direction on the substrate at intermittent and selected distances along the fine line depositions to provide migration barrier bands of adhesive to prevent migration of absorbent particles from the cut laminates. The laminate is cut within the cross-machine direction bands of adhesive to form cut-off laminates

It would have been obvious to one of ordinary skill in the art to have modified the method of Pedigrew by applying adhesive to the core stratum to bond to the cover layer, as taught by Pelley et al., as performed in making laminated absorbent structures. Applying the adhesive to the core stratum as continuous lines of adhesive deposited along the machine direction (longitudinal direction) of the core stratum and lines (strips) of adhesive at intermittent selected distances along the cross-direction (transverse direction) would have been obvious to one of ordinary skill in the art, as taught by Raterman, for adhering two webs together for the manufacture of absorbent structures while preventing migration of absorbent particles from the articles cut from the bonded webs.

By passing the continuous core stratum through a container to apply and adhere absorbent particles to form defined areas along the core stratum, a first layer (the core stratum) is obviously directed along a longitudinal direction (the direction along which the continuous core stratum is passed) for applying a powder layer continuously and to produce powder layers arranged one after another in the longitudinal direction, as claimed.

(8)

Claims 3, 4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew in view of Pelley et al. 5,766,388 and Raterman 5,540,804, as applied to Claim 1, further in view of Lang 4,715,918.

Pedigrew discloses that each article can have multiple areas of absorbent particles.

Lang teaches that in making a absorbent article, the article can be provided with superabsorbent material in discrete, separated areas. Lang teaches that the discrete, separated areas of superabsorbent material of the article are isolated in pockets by providing areas of adhesive which surround the areas of superabsorbent material. The areas of adhesive are provided by applying areas of adhesive to covering web to be subsequently laminated to the substrate bearing the areas of absorbent material. As shown in Figure 2, the areas of adhesive can form a cross-hatched pattern that separates the piles of superabsorbent. (col. 3, lines 1-48).

It would have been obvious to one of ordinary skill in the art to have modified the method of the references as combined by also applying adhesive to the cover layer, as taught by Lang, to isolate the areas of absorbent particles in pockets. Applying adhesive to the cover layer such that transverse seals, as claimed in Claim 3, are formed between the core stratum and the cover layer would have been obvious to one of ordinary skill in the art, as Lang teaches that the adhesive can be applied to the cover layer to form a cross-hatched pattern that separates the absorbent areas and by providing a cross-hatched pattern of adhesive, transverse seals between the core stratum and cover layer obviously result upon lamination.

(9)

Claims 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew in view of Pelley et al. 5,766,388, Raterman 5,540,804 and Lang 4,715,918 as applied to Claim 8, further in view Heath et al. 5,494,622.

Heath et al. teach that in making an absorbent structure such as a diaper by supplying a carrier layer, applying particles of high-absorbency material to regions of the carrier layer and laminating covering layer with the carrier layer, after cutting the laminate into pads, the pads are laminated between a topsheet web and backsheet web to produce an article web for dividing into individual articles (col. 3-16).

It would have been obvious to one of ordinary skill in the art to have further modified the method of the references as combined by, after cutting to form individual articles, supplying the individual articles for further processing, as claimed in Claim 9 and 10, as Heath et al. teach that after the absorbent laminate is cut into pads (individual articles), the pads are subsequently laminated between a topsheet web and backsheet web to produce an article web for dividing into individual articles.

(10)

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedigrew in view of Pelley et al. 5,766,388 and Raterman 5,540,804 as applied to Claim 1, further in view of Erspanner et al. 2002/0013560.

Erspanner et al. teach that in making an absorbent structure such as a diaper, functional particles for use in the absorbent core include particles which serve as absorbents, odor control agents, fragrances, detergent, antimicrobial agent and the like [0058].



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It would have been obvious to one of ordinary skill in the art to have modified the method of the references as combined for making an absorbent laminate for a diaper by providing, in addition to the absorbent particle material, particles of odor control agent and/or detergent, as taught by Erspanner et al., as functional particles provided in the absorbent core of absorbent structures such as diapers. Providing functional particles of odor-control agent and/or detergent with the absorbent particles in the adhesive areas would have been obvious to one of ordinary skill in the art, as taught by Erspanner et al., as functional particulate material used in the absorbent cores of absorbent structures such as diapers.

### ***Conclusion***

(11)


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234.

The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melvin Curtis Mayes  
Primary Examiner  
Art Unit 1734

MCM  
March 6, 2006